

## Message Text

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ORIGIN DLOS-09

INFO OCT-01 EUR-12 IO-13 ISO-00 SS-15 OES-07 ACDA-12  
AGRE-00 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00  
COME-00 DODE-00 DOTE-00 EB-08 EPA-01 SOE-02  
DOE-11 FMC-01 TRSE-00 H-01 INR-10 INT-05 JUSE-00  
L-03 NSAE-00 NSC-05 NSF-01 OMB-01 PA-01 PM-05  
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TO AMEMBASSY BERLIN  
INFO USMISSION GENEVA  
AMEMBASSY MOSCOW  
USMISSION USUN NEW YORK

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E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS DISCUSSIONS WITH GDR REPS FEBRUARY 15 AND 17

REF: BERLIN 809

BEGIN SUMMARY. AMBASSADOR RICHARDSON AND DELOFF MET WITH DEPUTY HEAD OF LAW AND TREATY DEPARTMENT, MFA, GUNTER GOERNER, TO DISCUSS THE RIGHTS OF LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES (LL/GDS) WITH RESPECT TO THE LIVING RESOURCES IN THE EXCLUSIVE ECONOMIC ZONE (EEZ).

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DELOFF SEPARATELY MET WITH GOERNER TO DISCUSS ALL SUBJECTS RAISED REFTEL. END SUMMARY.

1. DEPARTMENT APPRECIATES DETAILED REPORTING OF EMBASSY AS CONTAINED REFTEL. IT IS CLEAR THAT THE SOVIET UNION HAS DISCUSSED LOS IN SOME DETAIL WITH THE GDR AS POINTS RAISED COINCIDE IN MANY RESPECTS WITH SOVIET CONCERNS RAISED AT G-5 MEETING IN MOSCOW IN LATE JANUARY.

2. STRAITS. DELOFF STATED THAT US VIEWS STRAITS CHAPTER

AS NEGOTIATED AND DOES NOT RPT NOT SUPPORT AMENDMENTS THERETO. HE STATED THAT EVEN IF OTHER STATES SUBMITTED AMENDMENTS THE MARITIME STATES SHOULD NOT RPT NOT SUBMIT COUNTER AMENDMENTS. THE US IS AGAINST GIVING LEGITIMACY TO THE POSITION OF A VERY LIMITED NUMBER OF STRAITS STATES THAT CHANGES TO THE ARTICLES ARE DESIRABLE. THE LIABILITY PROVISION SUGGESTED BY THE GDR HAS PREVIOUSLY BEEN RAISED BY THE SOVIET UNION. DELOFF INDICATED THAT THIS TREATY SHOULD NOT RPT NOT DEAL WITH THE DIFFICULT QUESTIONS OF LIABILITY. GOERNER TOOK THE POINT BUT MADE NO FIRM COMMITMENT.

3. ARCHIPELAGOES. DELOFF INDICATED THAT THE ARCHIPELAGO CHAPTER IS FULLY NEGOTIATED AND PROTECTS THE INTERESTS OF THE MARITIME STATES. HE EXPLAINED THAT IF AN ARCHIPELAGO STATE DOES NOT RPT NOT ESTABLISH SEALANES, ARCHIPELAGIC SEALANE PASSAGE (NOT RPT NOT INNOCENT PASSAGE) WOULD BE THE GENERAL REGIME THROUGHOUT THE ARCHIPELAGO. GOERNER ADMITTED THAT HE HAD PERHAPS MISREAD THE PERTINENT ARTICLE. MOREOVER, DELOFF STATED THAT THE RIGHT OF NAVIGATION AND OVERFLIGHT IN THE ARCHIPELAGO WAS A SATISFACTORY FORMULATION INSOFAR AS IT INCLUDES, INTER ALIA, REFERENCE TO "IN THE NORMAL MODE," THUS PRESERVING THE RIGHT OF OVERFLIGHT, CONFIDENTIAL

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SUBMERGED TRANSIT, ETC. GOERNER DID NOT PRESS THIS POINT.

4. ECONOMIC ZONE. DELOFF STATED THAT THE US AND THE USSR HAD AGREED ON AN AMENDMENT TO ARTICLE 89 WHICH MAKES CLEAR THAT NO STATE MAY VALIDLY PURPORT TO ASSERT SOVEREIGNTY OVER THE SEAS BEYOND THE TERRITORIAL SEA AND THAT WE HOPE THAT SUCH PROVISION WOULD BE IN A FINAL TREATY. THIS AMENDMENT TO ARTICLE 89 WOULD MEET GOERNER'S POINT REGARDING AN AMENDMENT TO THE SAME EFFECT TO ARTICLE 55. HE DID NOT KNOW, HOWEVER, OF THE US-USSR AGREED ARTICLE (ALSO APPROVED BY OTHER MEMBERS OF THE GROUP OF 5).

5. CONTINENTAL SHELF. DELOFF INDICATED US SUPPORT FOR THE IRISH FORMULA FOR DEFINING THE CONTINENTAL SHELF WHERE IT EXTENDS BEYOND 200 MILES AND INDICATED THAT THE 200 MILE/500 METER ISOBATH FORMULA OF THE SOVIET UNION AND EASTERN EUROPEANS COULD NOT RPT NOT IN OUR VIEW FORM THE BASIS FOR AGREEMENT AS IT FAILED TO RECOGNIZE THE MAJOR INTERESTS OF BROAD MARGIN STATES. GOERNER NOTED THIS POINT. (AT THE G-5 MEETING IN MOSCOW THE SOVIETS, WHILE PUSHING THE 200 MILE/500 METER FORMULA, INDICATED THAT PERHAPS THEY COULD AGREE TO A FORMULA THAT DEFINED THE SHELF BEYOND 200 MILES AS THE FOOT OF THE CONTINENTAL SLOPE PLUS A MAXIMUM DISTANCE SEAWARD OF, FOR EXAMPLE, 50 MILES PROVIDED THAT COASTAL STATE JURISDICTION OVER THE SHELF DID NOT EXTEND MORE THAN, FOR EXAMPLE, 250 MILES FROM SHORE. THIS FORMULA WAS NOT RPT NOT SUPPORTED BY ANY MEMBER OF THE

G-5.)

6. SEMI-ENCLOSED SEAS. DELOFF INDICATED THAT THE EXISTING CHAPTER ON ENCLOSED AND SEMI-ENCLOSED SEAS WAS SATISFACTORY. HE INDICATED THAT THE US WAS AGAINST REDUCTIONS IN THE FREEDOM OF NAVIGATION NOT ONLY IN THE MEDITERRANEAN BUT IN OTHER SEAS WHICH MIGHT BE CONSIDERED SEMI-ENCLOSED INCLUDING THE BALTIC OR A PART THEREOF. HE INDICATED THAT IF AN ATTEMPT WAS MADE TO INCREASE THE RIGHTS OF THE

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LITTORAL STATES VIS-A-VIS THIRD STATES, THE US WOULD OPPOSE THE ENTIRE CHAPTER BEING INCLUDED IN A TREATY. GOERNER INDICATED THAT HE COULD AGREE WITH DELETING THE CHAPTER BUT DID NOT FIND THE PRESENT CHAPTER SATISFACTORY. (COMMENT: THE SOVIET UNION RAISED A SIMILAR POINT AT THE G-5 MEETING IN MOSCOW BUT TIME DID NOT PERMIT ANY DISCUSSION. THE SOVIETS DO IN FACT FAVOR LIMITING THE RIGHTS OF THIRD STATES IN CERTAIN SEMI-ENCLOSED SEAS AS A MATTER OF DOCTINE ALTHOUGH THIS ISSUE HAS NOT BEEN RAISED AS SUCH IN THE LOS CONFERENCE. THE SOVIETS HAVE PROPOSED AMENDMENTS TO THIS CHAPTER TO REDEFINE ENCLOSED/SEMI-ENCLOSED SEAS. WE DO NOT SUPPORT THEIR AMENDMENTS.)

7. LL/GDS ACCESS TO FISHERIES. GOERNER STATED THE GDR VIEWS ESSENTIALLY ALONG THE LINES OF PARAS 8, 9, 10, 11 AND 12 REFTEL. AMBASSADOR RICHARDSON AND DELOFF INDICATED THAT IT APPEARED THAT THE FOLLOWING ELEMENTS COULD FORM THE BASIS FOR AN AGREEMENT AT THE CONFERENCE:

--THERE WOULD BE A RIGHT RPT RIGHT OF ACCESS FOR LL/GDS TO LIVING RESOURCES;

--THAT RIGHT WOULD APPLY TO AN APPROPRIATE PART OF THE SURPLUS;

--THERE WOULD BE NO GENERAL PREFERENCE FOR LL/GDS;

--THE RIGHT WOULD BE EXERCISED WITHIN A REGIONAL OR SUB-REGIONAL CONTEXT.

US SIDE NOTED THAT THESE FOUR POINTS HAD SOME SUPPORT IN BOTH THE LL/GDS ON THE ONE HAND AND THE COASTAL STATES ON THE OTHER. THE US COULD NOT AGREE TO A RENEGOTIATION

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OF ARTICLES 61 (CONSERVATION OF LIVING RESOURCES) AND 62 (UTILIZATION) IN THE GUISE OF NEGOTIATING THE RIGHTS OF LL/GDS. WE DID NOT SEE THAT AN INTERNATIONAL FISHERIES ORGANIZATION COULD BE EMPLOYED TO DETERMINE THE MAXIMUM

SUSTAINABLE YIELD OF COASTAL SPECIES OF FISH WITHIN A 200 MILE ECONOMIC ZONE. REGARDING GOERNER'S POINT THAT DEVELOPED GDS SHOULD HAVE PREFERENTIAL RIGHTS TO SURPLUS FISH STOCKS IN THE ECONOMIC ZONES OF THOSE DEVELOPED STATES OFF WHOSE COASTS THEY HAVE HABITUALLY FISHED, THE US SIDE NOTED ITS VIEW THAT THE ONLY BASIS FOR AGREEMENT WAS THE USE OF REGIONAL APPROACHES (CONTRARY TO WHAT GOERNER INDICATED REFTEL). AT THE SAME TIME DELOFF WONDERED ABOUT THE RELATIONSHIP OF DEVELOPED GDS TO TRADITIONAL STATES WHO WOULD ALSO CLAIM FISHING RIGHTS. GOERNER PICKED UP THIS VEILED REFERENCE TO THE USSR AND INDICATED THAT THE GDR WAS HOLDING "DIFFICULT" DISCUSSIONS WITH THEM AT THIS TIME. HE ALSO NOTED THAT THEY HAD AN EYE ON GETTING PART OF THE JAPANESE ALLOCATION. DELOFF INDICATED THAT WE WOULD BE INTERESTED IN THE RESULTS OF ANY SUCH DISCUSSIONS WITH THE SOVIET UNION. US SIDE INDICATED IT WOULD STUDY THE DEFINITION OF GDS AS PROPOSED BY THE GDR (BUT WE WILL HAVE NO COMMENT PRIOR TO YOUR MARCH 2 MEETING). WITH RESPECT TO GOERNER'S SUGGESTION THAT CONSIDERATION OUGHT TO BE GIVEN TO GIVING LANDLOCKED STATES REVENUE SHARING RIGHTS TO THE MINERAL RESOURCES WITHIN 200 MILES AND THE GDS RIGHTS TO THE SURPLUS LIVING RESOURCES, THE US SIDE INDICATED THAT IT SAW NO POSSIBILITY OF REVENUE SHARING WITHIN 200 MILES BEING AGREED TO AT THE CONFERENCE. AT THE SAME TIME DELOFF INDICATED IT WAS NOT LIKELY THAT SWITZERLAND AND AUSTRIA WOULD BECOME DISTANT WATER FISHING STATES IN A BIG WAY ALTHOUGH THE POSSIBILITY OF ESTABLISHING JOINT VENTURES WAS ALWAYS A POSSIBILITY. US SIDE ALSO INDICATED THAT ALTHOUGH THE US HAD MADE NO CONCRETE PROPOSAL ON THE LL/GDS ISSUES OUR VIEWS ARE AS STATED ABOVE. WE ALSO NOTED THAT WE HAD PUBLICLY ADOPTED THE POSITION OF STATING CLEARLY THAT A RESOLUTION OF THIS

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ISSUE WAS ESSENTIAL TO THE PACKAGE DEAL AT THE CONFERENCE (A POINT OFTEN DISPUTED BY CERTAIN COASTAL STATES) AND THAT THE ISSUE SHOULD NOT RPT NOT BE LEFT FOR RESOLUTION AT THE LAST MINUTE (A POSITION OF MANY COASTAL STATES). GOERNER APPRECIATED THIS GENERAL POLITICAL TILT BUT OBVIOUSLY HOPED FOR MORE CONCRETE SUPPORT FOR THEIR OBJECTIVES.

8. COMMENT: IT IS CLEAR THAT THE EASTERN EUROPEANS ARE CAUSING SOMEWHAT OF A SPLIT WITHIN THE GROUP OF LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES. IT WOULD APPEAR THAT THE LEADERSHIP OF THE LL/GDS GENERALLY PERCEIVE AN ULTIMATE AGREEMENT SOMEWHAT ALONG THE LINES OF THE FOUR POINTS NOTED IN PARA 7 ABOVE ALTHOUGH THEY HAVE NOT AGREED ON THE LANGUAGE THAT WOULD BE ACCEPTABLE. THERE IS ALSO A FAIR AMOUNT OF SYMPATHY AT THE CONFERENCE FOR THE PLIGHT OF DEVELOPING LL/GDS. THE EASTERN EUROPEANS DO NOT HAVE VERY MUCH SYMPATHY ON THIS ISSUE WHICH MAY EXPLAIN

THEIR HARD LINE. TO THE EXTENT THAT THE GDR MAY SAY THAT  
THE BURDEN OF DEVELOPED GDS RIGHTS SHOULD NOT RPT NOT FALL  
FULLY ON NORWAY AND THE EEC THEY CLEARLY ARE LOOKING TO  
SOME SOLACE FROM FISHING OFF THE US AND CANADIAN COASTS.  
WE HAVE NOT RPT NOT ENCOURAGED THEM NOR HAVE THE CANADIANS  
TO EXPECT TO SATISFY THEIR INTERESTS IN THAT AREA.

9. WE INDICATED TO GOERNER THAT WE LOOK FORWARD TO  
CONTINUED CONSULTATIONS WITH HIM AT THE GENEVA SESSION AND  
INDICATED THAT WE WOULD REPORT FULLY TO OUR EMBASSY. VANCE

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## Message Attributes

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